

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WELLS FARGO BANK, NATIONAL	:	
ASSOCIATION, AS TRUSTEE, FOR THE	:	
BENEFIT OF THE HOLDERS OF COMM	:	
2015-LC19 MORTGAGE TRUST	:	20-CV-2048 (VSB)
COMMERCIAL MORTGAGE PASS-	:	
THROUGH CERTIFICATES, <i>acting by and</i>	:	<u>OPINION & ORDER</u>
<i>through Midland Loan Services, a Division of</i>	:	
<i>PNC Bank, National Association, as Special</i>	:	
<i>Servicer under the Pooling and Servicing</i>	:	
<i>Agreement dated as of February 1, 2015,</i>	:	
	:	
Plaintiff,	:	
	:	
- against -	:	
	:	
	:	
5615 NORTHERN LLC and SPYRO E.	:	
AVDOULOS,	:	
	:	
Defendants.	:	
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Appearances:

David Vincent Mignardi
Keith Michael Brandofino
Holland & Knight LLP
New York, New York
Counsel for Plaintiff

George Sitaras
Sitaras & Associates, PLLC
New York, New York

Charles Wallshein
Charles Wallshein PLLC
Melville, New York
Counsel for Defendants

VERNON S. BRODERICK, United States District Judge:

Before me is Magistrate Judge Katharine H. Parker's unobjected to Report and Recommendation, filed on May 4, 2023 (the "Report"). (Doc. 107 ("R&R").) I referred this matter to Magistrate Judge Parker for a report and recommendation concerning whether a judgment of foreclosure and sale should be issued and the amount of the judgment, as well as whether a receiver should be appointed. Magistrate Judge Parker recommended the following:

(1) That judgment be entered in favor of Plaintiff in the amount of \$12,636,379.74 for damages accrued up to April 6, 2023, which included the following:

- a. The unpaid principal balance of \$8,271,086.02;
- b. \$1,245,017.34 of regular interest and \$1,708,348.16 of default interest accrued on the unpaid balance until April 6, 2023;
- c. The maturity late charge of \$414,931.88;
- d. Protective advances totaling \$895,203.52 and an additional \$31,586.85 for outstanding attorneys' fees and costs; and
- e. \$66,105.97 in Special Servicing Fees and \$4,100.00 for Payoff Quote fees.

(Id. at 27.)

(2) That judgment be entered in favor of Plaintiff for an amount to be determined at the time of judgment for:

- a. Interest that will have accrued on the unpaid principal balance from April 6, 2023 until the time of judgment;
- b. Interest accrued on the protective advances, calculated at prime rate or the Default Rate of 9.99%, whichever is less;

c. Additional payments Plaintiff makes in protective advances, attorneys' fees, Special Servicing Fees, and Payoff Quote fees, and any interest accrued thereon in accordance with the Report.

d. A Liquidation Fee in an amount to be determined following the foreclosure sale. (*Id.*)

(3) That post-judgment interest be awarded to Plaintiff. (*Id.*)

(4) That Ivan V. Lagowitz be appointed as a referee of the sale and as a receiver on the Property, and the proceeds from the sale of the Property be applied to the amount of damages owed. (*Id.*)

In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Parties may raise specific, written objections to a report and recommendation within 14 days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews de novo the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b)(3). "When neither party submits an objection to a report and recommendation, or any portion thereof, a district court reviews the report and recommendation for clear error." *Santana v. Comm'r of Soc. Sec.*, 17-CV-2648 (VSB) (BCM), 2019 WL 2326214, at *1 (S.D.N.Y. May 30, 2019); *Marte v. Berryhill*, 17-CV-3567 (VSB) (JLC), 2018 WL 5255170, at *1 (S.D.N.Y. Oct. 22, 2018) (same).

Judge Parker notified the parties in the Report that they

shall have fourteen days from the service of this Report and Recommendation to file written objections to the Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. *See also* Fed. R. Civ. P. 6(a), (d) (adding three additional days only when service is made under

Fed. R. Civ. P. 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other means consented to by the parties)).

(R&R 28.) Despite Judge Parker's admonition, none of the parties objected to the Report or requested more time to do so. Accordingly, I have reviewed Judge Parker's thorough and well-reasoned Report for clear error and, after careful review, found none. Accordingly, I ADOPT the Report in its entirety.

In accordance with Judge Parker's recommendation, it is hereby ORDERED that Mr. Ian V. Lagowitz of Trigild IVL Group be appointed as a referee of the sale and as a receiver on 56-15 Northern Boulevard in Queens, New York. (R&R 27.) An order related to the receivership will be filed after this Opinion & Order is filed on the docket.

An order and judgment consistent with Judge Parker's Report will also be filed after this Opinion & Order is filed on the docket.

SO ORDERED.

Dated: November 8, 2023
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

Vernon S. Broderick
United States District Judge